

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting December 12, 2019 Senate Committee Room E State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Chairman Julie Stokes called the Legislative Audit Advisory Council (Council) meeting to order at 10:30 a.m. Ms. Liz Martin called the roll confirming quorum was present.

**Members Present:** Representative Julie Stokes, Chairman  
Senator Mike Walsworth, Vice Chairman  
Senator W. Jay Luneau  
Senator John Smith  
Representative Christopher Turner, Proxy for Representative Edmond Jordan  
Representative Larry Bagley, Proxy for Representative Blake Miguez

**Members Absent:** Senator Wesley Bishop  
Senator Danny Martiny  
Representative Jimmy Harris  
Representative Clay Schexnayder

**Also Present:** Daryl G. Purpera, CPA, CFE, Louisiana Legislative Auditor (LLA)

### Approval of Minutes

Vice Chairman Walsworth made a motion to approve the minutes for the November 21, 2019 meeting and with no objection, the motion was approved.

### Extension Requests

Mr. Bradley Cryer, Director of Local Government Services, presented one non-emergency extension less than 90 days for the St. Martin, Iberia, and Lafayette Community Action Agency, Inc, - SMILE. Last year an extension was granted because the agency had replaced its entire board and management structure. SMILE has lost its Head Start funding. The auditor is looking at financial problems and determining whether or not there will be a going concern which means they will question the viability of that agency going forward.

Mr. Cryer said the LLA is recommending the Council grant the full sixty days extension requested because of SMILE's financial distress problems. Chairman Stokes asked if SMILE is a non-governmental organization (NGO) and Mr. Cryer responded that it is a quasi-public agency and performs different services in the community. Head Start was its largest program but do other programs such as Meals On Wheels.

Vice Chairman Walsworth moved to approve the non-emergency extension request for SMILE and with no opposition that motion was adopted.

### Evaluation of Controls Over the Prescribing of Opioids in the Workers' Compensation Program – Performance Audit Issued December 4, 2019

Mr. Chris Magee, LLA Data Analytics Manager, presented the performance audit in 2015 regarding Louisiana worker's compensation costs and during that audit we found that Louisiana was an outlier compared to other states and felt it was appropriate to conduct an audit to look at opioid problems in the workers compensation program. The objective of the audit was to evaluate controls over the prescribing of opioids in the Workers' Compensation (WC) program, including how Louisiana could strengthen these controls to reduce the risks associated with opioid use. The goal of workers compensation is to get workers back to work as soon as possible, as fully as possible. This report is different from most

other reports because there are seven matters for legislative consideration that are not recommendations specifically to the agency.

Mr. Magee continued explaining that overall, we found that Louisiana could strengthen prescribing controls in WC to reduce the risks associated with opioids use. Specifically, we had six findings, which I will discuss in further detail and can expound upon based on any questions or discussions by the members. We primarily focused on the program going forward, not those who are now dependent on opioids.

Senator Luneau asked who was included in this report such as private employers. Mr. Magee responded that only state data from the Office of Risk Management (ORM) and Louisiana Workers Compensation (LWC) were included regarding state employees. The first finding is that Louisiana is an outlier and does not currently use mechanisms (drug formulary/reimbursement rules) to implement controls for prescribing opioids in the LWC program. The formula used to take strengths from opioids is morphine equivalent dose (MED). Louisiana is high in frequency and high in MED.

Mr. Magee said that the National Council on Compensation Insurance (NCCI) reported that claims with opioids nationally decreased 14% from calendar year 2013-17, but only decreased 7% in Louisiana. The issue is that Louisiana is already an outlier and still only improving half as much as the other states. As part of this first finding, we identified a few mechanisms that are being used to help adjust opioid use. One mechanism is prescription formularies which do not exist in Louisiana. It basically denotes as an N or Y drug for if the drug requires prior authorization. The Louisiana Medical Treatment Guidelines (MTGs) were developed in calendar year 2011 but are not enforceable statewide for prescriptions due to conflicting court decisions and only 15 states are without that mechanism.

In the Matter for Legislative Consideration, we recommend that the Legislature may wish to evaluate what mechanism(s) could be put into place, such as: revising state law to clear up conflicting court decisions; developing a formulary to support the MTGs; authorize reimbursement rules for conditions/limits for prescribing opioids. LWC's response states that any formulary should be compatible with MTGs. They also stated that if prescriptions are subject to the MTGs, the commission would need many more resources and to hire more staff. The LLA responds that the fact that the MTGs do not apply statewide means injured workers are being treated differently, which shows the need for the legislature to clean up the law. Since there is already a process in place to review prescriptions, it is not clear why LWC would need to hire additional staff.

The next Matter for Legislative Consideration suggests that the Legislature may wish to consider revising state law to require prior authorization after \$750 only for treatment, including prescriptions that are not recommended. In 2017, Louisiana legislature adopted a law that limits all first-time opioid prescriptions to only a seven day supply. However, first-time opioid prescription is not defined, so insurers are defining it differently.

The second finding is about this prescription monitoring program. The Centers for Disease Control and Prevention (CDC) states that long term opioid use often begins with treatment of short term acute pain and excessive initial prescriptions increase risks of serious harms and diversion. The idea behind this law was that after seven days they would reevaluate longer term use. The law is not requiring definition of first-time use. It could be that a year has passed by and they could try it again. For example, Sedgwick with the Office of Risk Management (ORM) defines first-time usage after 6 months they can get a new prescription. The state Medicaid program has chosen 90 days. We recommend applying a shorter timeframe for the definition of first-time users would limit more people's supply to 7 days or less. The Legislature may wish to specify a timeframe in state law for first-time opioid prescriptions.

During calendar years 2016-18, 24.6% of state workers compensation claimants with opioids had an average MED that exceeded the CDC recommendations of 50 MED. Louisiana does not have controls in workers compensation related to MED and the guidelines do not set limits. By implementing specific MED limits for opioids similar to other states and Medicaid may help reduce the increased risk of overdose, addiction and long-term use.

Senator Luneau asked why LLA's report only looked at state worker's compensation and not compared to the rest of the state because he ventured to guess that state workers are more sedentary. He asked why the report went back to October 2015 when the new rules did not go into effect until 2017. He suggested a comparison of before and after 2017 new

rules. Ms. Lauren Pendas, LLA Performance Auditor, explained that due to the nature of the data and utilizing the most recent data for the report, non-opioid usage in Louisiana has increased comparable to other states.

Senator Luneau suggested that since the report was issued on Monday, to allow stakeholders a chance to look at the report, to table the discussion of this report and bring to the next meeting. He said this is an important and difficult issue that needs to be looked at more carefully. Mr. Purpera assured Senator Luneau that the departments addressed in the report were provided draft reports and provided time to respond just as LLA's process for all reports. Senator Luneau said many did not have time to review the report and would like to allow those with injured workers to testify on this issue. Chairman Stokes responded that she would allow everyone who came to testify on this report to speak and finish the discussion since it was her last meeting.

Mr. Magee referred to the statistics that shown in the report show that because there is a lack of controls increases the risk to the claimants. 29% of state workers' comp claimants with opioids had opioids for 90 or more consecutive days. This is a risk factor for increased addiction to opioids. 16.4% of state workers' comp claimants with opioids were concurrently prescribed benzodiazepines. The CDC and the FDA both recommend that clinicians avoid prescribing these concurrently. Basically these two prescriptions do not work well together.

Chairman Stokes asked for an example of a benzodiazepine. Ms. Pendas responded an example would be Xanax which is used to treat seizures as well as sedatives in general. Both opioids and benzodiazepines cause respiratory depression which increases the risk of death by 4-10 times.

Mr. Magee said the proposed chronic pain guideline updates do address concurrently prescribing opioids and benzodiazepines, however one section of them state that they should not do this, which goes along with the CDC. Another section says you should only do it in small doses. So again to make sure that there is not conflicting language. Also 5.2% of state workers comp claimants with opioids receive opioids from three or more prescribers in the same quarter. This is associated with doctor shopping and again making sure that those prescribers do use the PMT and work with one another to ensure the same medications are not prescribed. The main message of the entire report is that increasing controls could potentially reduce a claimant's risk associated with opioids, with the goal of the workers' compensation program to get the injured worker back to full health as quickly as possible so they can get back to work. But most importantly, safely return to work with the appropriate medications and treatment. These medications were given out very prevalently in the past. Controls are being put in place. As science changes, we have to change our approach on how to treat these types of illnesses. Consistently research shows that we need to move away from this by implementing more controls at the state level.

Ms. Pendas noted that the U.S. Department of Health and Human Services (HHS) stressed that new controls if implemented should not necessarily be interpreted as a mandate for people already on opioids to have to get off of them. If the benefits continue to outweigh the risks then they should be able to continue the treatment that they're already on. This is more directed towards changing prescribing practices in general for people as they move forward. Chairman Stokes asked if any components of it that can't be addressed by law. Mr. Magee responded there's some that could be worked through the legislature and the office of workers' compensation through administrative code.

Ms. Pendas stated the main issue is that the law doesn't specifically say that the medical treatment guidelines apply to prescriptions and that's where the appeals courts have had different decisions. That's where the clarification would be needed from the legislature as well as the legislature would need to authorize a formulary if they decided that that was the best mechanism for being able to implement these kinds of rules.

Ms. Karen LeBlanc, Director of Performance Audit Services, added that all of these controls are recommended by the CDC and have also been implemented in Medicaid and other insurance programs. Ms. Pendas stated we already have medical treatment guidelines that set standards for medical services in general, so why would setting standards statewide for everybody for prescriptions be any different? Chairman Stokes commented she did not think people in one area of the state have any different biological needs.

LWC Assistant Secretary Sheral Keller testified that she did make comments for the agency on the performance audit and stood by the comments. But if anyone has any questions, she was willing to answer them but there to give facts only.

Senator Luneau asked if she had any idea the percentage of state workers compensation compared to statewide. Ms. Keller responded that she can get the information and provide to him after the meeting. Senator Luneau said he wanted to compare apples to apples because it seems that's probably a very small percentage of the overall workers' comp claims throughout the state. He asked do we have any data about the number of workers' comp prescriptions denied for painkillers versus opioids. Ms. Keller answered that data is not submitted through LWC. We know that 90% of requests for treatment are approved at the carrier level and only the 10% that are denied. We don't get a lot of requests for approval of prescriptions. We do know alternative treatments to opioids like compounds, physical therapy, etc. are more generally denied because they cost more than an opioid. Senator Luneau commented that they need good information and wants to table this report until LWC secretary can attend. Chairman Stokes pointed out Appendix A-1 for the agency's response.

Mr. Gary Patureau, Executive Director of Louisiana Association of Self Insured Employers, said we have three main membership categories. We had the fully self-insured employer like Royal Martin, Libby Glass, Entergy or Brookshire's Grocery Store. We have self-insured group funds like the police jury association or the municipal association. We have a deductible policy employers like Turner Industries. Our members self-insure for a variety of insurances. Workers' comp lassie was created as a workers' comp organization in 1991, but in 2015 we expanded our mission beyond workers' comp into health, property casualty, general liability, automobile liability, maritime and fiduciary liability. Many of our members are based here in Louisiana and only operate in Louisiana, but almost 50% of the self-insured employers that self-insure through the office of workers' compensation are either multi-state or national employers. Many of them operate in our three or four state region. They're able to compare their data, their costs, the efficacy of their programs in other States to what happens in Louisiana. Injured workers are part of the opioid epidemic in Louisiana and the data shows that we have one of the highest rates of opioid use within our system. My members tell us this over and over. They say our experience in Louisiana is higher than the other four operating States that we operate in and that has significance to all employers in the state of Louisiana.

These employers deal with the human side of opioid dependency or addiction. The number one goal of all employers is to try to prevent injuries through strong risk management practices. Their second goal is that if a person is injured, they want to get the appropriate care. They want for that employee to be able to manage their pain while they recover so that they can return to work. We don't do a great job here in Louisiana on a statewide basis, but our members make that a top priority. Instead of an injured worker going down the path of taking long term opioids, they would rather see them take safer first line drugs to be able to manage their pain so that they can return to work which in many other states that they operate that happens. This report highlights the need for us to take a stronger look at what we do going forward, but we have to address this issue.

Mr. Patureau continued explaining that the solutions put into place in 2017 are a broad brush solution. We have a very specific problem within the workers' compensation system and we have a solution across the country, that have been implemented and we have the opportunity to do that here. I passed out a report that was done by the Workers' Comp Research Institute in February of 2018 and it was specifically for the Office of Group Benefits and Office of Risk Management on what would happen if we implemented a Texas style formulary.

Our concern is that it's been billed that we have more hazardous jobs in the state of Louisiana than in other States. Our jobs aren't necessarily more hazardous. We don't have an out because we think our jobs are more hazards. My members' workforces go back and forth between the individual States. They had the same business management procedures and the same safety issues. It's not an out to not implement something to address this issue.

Medical treatment guidelines and pharmacy formularies work well together. So implementing the pharmacy formulary would not cause undue stress within our workers' compensation system. It's been stated that there would be additional costs to the system. I spoke to the former director of the Texas division of workers' compensation who was tasked with implementing their pharmacy formulary in the state of Texas and he stated that they did not hire any extra personnel to implement the formulary. He also stated that the formulary actually made the existing medical guidelines more efficient

and they were worked better for all stakeholders in the system. I also spoke, with the self-insurance director of the Arkansas workers' compensation commission and he stated that they had no new hires when they implemented their formulary. They are currently managing their program with their existing medical cost containment unit personnel.

Mr. Patureau also did a comparison of state workers' compensation agency personnel in our four state region which includes Louisiana, Mississippi, Arkansas and Texas. It's been stated that there would have to be new hires and it would cost a lot of money to address this issue through one of the potential solutions. On a per capita basis, Louisiana's office of workers compensation has approximately the same number of people as these other entities have that have addressed specific solutions in their workers' compensation system for opioid use.

So to close, we have data that shows that we have an opioid issue within our workers' compensation system. I can have 10 employers at the next committee meeting to tell you about their workers' compensation program. I do absolutely believe that there's a solution. The Legislative Auditor has addressed those solutions on two different reports. And I would hope that with the new legislature as we go forward, that we will look at this issue. It's too important to not address specifically this area that we know that we have a specific problem that there could be a specific solution.

Chairman Stokes stated I do think that the things that you brought up do highlight a need and an opportunity to have that meeting of this advisory council to reconvene about this in January. We appreciate the information.

### **Town of Sterlington – Investigative Audit Issued November 14, 2019**

Mr. Roger Harris, Director of Investigative Audit, testified that his staff conducted an investigative audit of the Town of Sterlington (Town), which is currently under fiscal administration. We were trying to find out what happened to put them in this situation. Mr. Kevin Kelley was the investigative manager of the project and Ms. Sandra Whitehead was our senior investigative auditor

Mr. Kelley stated the Town had three findings. The first finding was incorrect financial information was used to obtain bonds. The Town obtained \$18.2 million in bonds between 2011 and 2017 and they incurred another \$2.9 million in lease purchase obligations in 2017. The purpose for the debt and the lease purchases was utilities, both water system and sewer system, to build a sports complex and to refund a 2015 utility bond. The principal balance due on the bonds as of August 2019 is \$16.7 million.

The Town hired Mr. Aaron Fletcher as a municipal advisor who performed financial projections that were submitted to the state bond commission and to the banks that purchased the bonds. He was the Town's municipal advisor on eight of those ten bonds and with both of the lease purchases. Mr. Fletcher worked for three different brokers until 2015 then he opened his own company, Twin Spires Financial LLC out of Frisco, Texas. Twin Spires was paid \$209,000 for the revenue projections for the bonds that went to the bond commission. From March to September of 2018, they were contracted to be the Town's cash management officer and receive about \$2,000 a month but I don't think they worked every month.

We looked at the last three bonds out of the 10 issued in 2017 and 2018, we found the financial projections were overstated revenue and understated expenses and that those understatements were sent to the bond commission and to the banks. We determined that by comparing the numbers in the financial projections to available information such as audited financial statements and town records. We're estimating revenue and expenses that's going to be generated if the money's borrowed and then invested into the specified purpose.

The first bond was for the April, 2017 \$4 million utility revenue bond, Twin Spires prepared a financial projection and estimated that revenue from the used of those bond funds would be sufficient to repay that debt. The financial projection used estimates, those estimates were then used to calculate a debt service coverage ratio. An example, a debt service coverage ratio of one means you're estimating that you can generate enough money to pay the bond back, but you won't have any leftover. But if you have a debt service coverage ratio of 1.02, it means you would have 2% leftover or reserve. If you have a debt service coverage ratio that's less than one, that means the bonds will not generate enough revenue to pay itself back and you have to identify another revenue source. The bond projection showed they would generate enough revenue to pay themselves back. The debt service coverage ratio on the April, 2017 \$4 million

utility revenue bond, Twin Spires showed that as 1.02, we calculated that as 0.72. So, their calculation showed a 2% reserve and our calculation showed a 28% shortfall.

We found two major things that led to the overstatement. The first discrepancy was with sewer system revenues. Twin Spires estimated 1,574 sewer system customers. We estimated 960 which came from Town's December 2017 report. We asked Mr. Fletcher how he came up with 1,574 sewer customers. He told us he used the Greater Ouachita Water Company's water usage report. Nobody meters their sewer usage only the water usage. Greater Ouachita Water provides the water service and the Town provides the sewer service. The Town uses the water usage report to determine how much to bill in sewage. Mr. Fletcher sent us a copy of the 2017 December Greater Ouachita Water company report. He had 1,574, the report had 1425 and we came up with 960. We do not know why he used 1574 instead of the 1425. We analyzed the report and saw customer names that were vacant and no names that had zero usage. We talked to the Town's utility clerk, she said "every month I go through that and I remove all of the vacants, all of the zero usage, the no names. Also, some streets in the Town have septic systems and I remove anyone on that street." She pulled out 561 people from the 1,425 which leaves 864. We had 960 and the difference is apartment complexes. They would bulk bill the apartment complex as one bill but there might be 40 people in the apartment complex. For revenue estimation, we know what the sewer rates are per user. So we figured out how many users you had, you multiply it by the rate and that's what your revenue would have been for that period.

The town clerk and the utility clerk both told us that the town, even now, does not have 1,574 sewer customers as represented by Twin Spires and their financial projection. They also both related to us that the mayor and Mr. Fletcher repeatedly asked, "how many sewer customers this month?", so they should have known the 1,574 reported was incorrect. So the effect over the 20 year life of the bond, Twin Spires estimate of revenue based on sewer customers is \$33.7 million. Our estimate is \$19.1 million. So there's a \$14.577 million difference and this is what's driving the difference of their debt service coverage ratio that shows it can be repaid and ours that shows that it can't.

The second major discrepancy was with the water system expenses. In 2017 it was a proposed water system and I'm not sure that it'll ever be completed. They continued to borrow money for utilities, including water, but it's never gotten to the point where it can generate any revenue. Twin Spires estimated \$51,250 of annual operating expenses to provide water to the town. They had a plan to do a surface water treatment plant, a brick and mortar arrangement. The town engineer did a written report on the design of the facility, how much it costs to operate it, etc. We used a number from that report on cost to operate it which was \$354,000 for the first year. So that's a \$303,000 operation discrepancy for the first year and this carried on each year for the life of the bond. The financial projection also included a 2 ½ % growth rate. I applied that to our \$354,000 number and he applied it to his \$51,000 number. His total expenses over the life of the bond were \$1.2 million and ours were \$8.5 million for a \$7.3 million discrepancy for estimated expenses. That's why our calculation showed the 0.72 and his calculation showed 1.02 for debt service coverage ratio.

The second bond for the sports park had no data so we used actual data and did a comparison. The debt service coverage ratio was off because they only used three years and we don't know why. They're going to have to refinance now because they don't have the funds to pay it off. The third bond was another utility bond that was used to refund a 2015 utility bond. We're going to talk about that in the next finding about how that money was misspent on a sports park, legal fees and other things. For each of the three bonds, the discrepancies were outlined in the report which we used to go back and find data available at the time.

Senator Walsworth stated that Mr. Fletcher has given us a lot of erroneous information. Does he have an errors and omissions policy that would help us out with some of the erroneous information that he gave to the city, the banks and the bond commission? Mr. Kelley answered he did not know the answer to that question. He is a one man operation who was affiliated with a broker in Kentucky that would likely have that type of a policy. He indicated to us he wasn't going to be doing this type of work anymore. His words, not mine, the firm he was affiliated with in Kentucky had labeled him a compliance nightmare. Now he's doing work according to his website with school districts in Texas.

Senator Walsworth requested to find out while he was with the Kentucky firm if they had some type of insurance for erroneous information before he became Twin Spires? Mr. Kelley responded Twin Spires is an LLC. He's the only member but the brokerage license was with the firm in Kentucky, who was sponsoring him and that's the license he was

allowed to use to do the municipal advisory work. They may have something, they are a registered firm. Whether Mr. Fletcher does or not is unknown.

Senator Walsworth asked if the bond counsel used his numbers. Mr. Kelley answered the bond counsel drafts the legal language in the bonds but all the projections you have to get that from an independent third party, which in this case was Mr. Fletcher and that gets attached and sent forward to the bond commission as a package.

Senator Walsworth stated that the town's attorney gave advice. Obviously he gave some incorrect advice, can you explain? Mr. Kelley responded that is the third finding in our report that has to do with the lease purchase that should have been bid. We asked the town clerk and she didn't know why it wasn't bid. We looked in the town records and we found a letter from the town attorney that said it was in compliance with the bid law. We talked to him and he said that he relied upon bond counsel's advice when he put that in his letter. We talked to bond counsel and said he had never seen the lease purchase agreement and does not provide advice on public bid law.

Senator Walsworth stated it seemed to be an unhealthy relationship between the town financial advisor and the mayor because it did not look like they went out to the town council for votes of any type. It was a financial advisor and the mayor basically doing the day to day stuff and they never included alderman at all. Is that what you get? Mr. Kelley responded it's the mayor's job as executive branch to do those things. Then they've got to go to the board of aldermen and get a resolution that has to go with the package to the bond commission. Once the bond commission gives approval, they have to bring it back and get an ordinance and finalize the work on the bonds. I can't tell you what was provided to them in those meetings. But the information was fed to them over a period and they approved it via resolution and later after bond commission by ordinance.

Senator Walsworth stated they used utility bond money for the ballpark which is illegal. Did anyone else know what the financial advisor and the mayor were doing? Mr. Kelley responded that's the second finding in our report. I'm not sure at what level of the financial advisor was involved in that park. My understanding, he took on this cash management role in 2018 and I'm not sure I entirely understand what his role was or what his deliverables were in that job. With the second finding, we are going to talk about the improper use of the bond funds. There's an original section that was cited by the auditor and a few months later the mayor provided a written response that he talked to his lawyer and a CPA, and responded we're going to pay the money back. We looked at records and found that they spend around \$2.8 million and that most of that was on the sports park. We have found audit fees, legal fees for the expropriation suit with Greater Ouachita and operating expenses like payroll. We spoke with the town clerk and she said that the mayor provided her guidance on what to pay and what not to pay.

Mr. Harris added one of the big concerns is they were told by the CPA at a particular point in time that you can't continue to spend these bond proceeds. They realized this as a problem and said, "we're going to repay that money" but they didn't repay all the money they said they were going to pay. The second concern is the fact that they spent it \$2.685 million on the sports park in expropriation fees after the CPA said you can't do that. They also wrote in their response that they were going to pay the money back indicating apparently that they knew at that point it was wrong. I'm not sure who exactly is involved in this except for the mayor who took an active role in it. This has been referred to the attorney general, the district attorney and the U.S. attorney.

The second finding was improper use of bond proceeds by the Town. The December 31, 2016 audit had a finding citing the \$322,000 bond proceeds should have been spent on the water system and the sewer system. However, the Town spent it on payroll, a gas line extension for a local business, police cars, audit fees, and a land survey for a potential purchase of real estate. We looked at January 1, 2017 and July 31, 2018 and the town continued to improperly spend from that bond another \$110,000 on operating payroll, legal fees and audit fees, this is from the 2015 utility bond that got refunded in 2018. In August 2017, the mayor provided a written response to say, "I got my advice from legal counsel and a CPA, we're going to pay this money back by December 31, 2017". Of the \$322,000, they paid back \$39,800 and then continued to spend another \$110,000, so \$392,000 should be paid back to that bond fund.

On the \$4 million utility revenue bond, they spend \$2.685 million, which was 67% of the bond proceeds, on the sports complex and legal fees regarding the two expropriation suits with Greater Ouachita Water Company. We interviewed the town clerk and she said she had processed and recorded payments as directed by the mayor.

The third finding was lease purchases that were not publicly bid. In 2017, the Town entered into two lease purchases totaling \$2.9 million for a lighting system and a water management system and neither were publicly bid. Both lease purchases include a non-appropriation clause which means it did not have to go to the state bond commission to get approval.

In September 2017, the mayor contracted with Musco Lighting for a 10 year lease purchase to acquire \$840,000 worth of permanent lighting for the sports park which are concrete poles in the ground, 50 feet in the air. The lease purchase was for the cost of the lighting only not the installation. The Town paid for the installation by using the 2017 Utility Revenue Bonds mentioned in finding two. The state law requires materials and supplies, such as a lighting system, to be bid out. The town clerk told us she did not know why it was not bid. We found the written opinion from the town attorney at the time that said the purchase was in accordance with public bid law and that was provided to Musco Lighting. The town attorney told us he relied on the bond counsel's opinion that it was in compliance with the bid law. The town's bond counsel told us that they had never seen the lease purchase and they do not provide advice on public bid law.

The second lease purchase is for a \$2 million water management system. In December 2017, The Town contracted with Capstone Metering in Plano, Texas. The state law requires public works that exceed \$154,450 to be publicly bid. The town clerk said the first time she had heard about this arrangement was at a meeting of the Board of Alderman where they voted and passed a resolution to authorize the mayor to enter into the contract. The lease purchase with Capstone was to provide and install 420 intelligent meters which are wireless and they monitor the water system and report usage.

Capstone was also supposed to provide and install a 300,000 gallon per day fresh water filtration system but the Town found a less expensive option. The Town went from a surface water treatment by pulling out of the river to a groundwater set up. Capstone had a conex filtration system that they would deliver, built out and install it so theoretically the Town could start providing water. That filtration system was included in the quote along with \$300,000 of contingency. We asked the Capstone CEO what that was for and he said that was included at Mr. Fletcher's, the municipal adviser, request.

The Capstone CEO told us they installed 298 water meters and delivered the remaining uninstalled water meters to the Town. The Town does not operate a water system. They own the water lines but they had a franchise agreement with Greater Ouachita to use those lines to deliver water to the residents. They would get a monthly fee for allowing Greater Ouachita to use the lines but now they were installing meters on lines that they owned but couldn't use. The filtration system has not been delivered. The CEO said there was not enough remaining funds on the lease purchase draw down to cover the water filtration system, so they cannot use the \$2.9 million indebtedness to pay for itself. In fact, it won't generate any revenue at all.

Per the Capstone CEO, the reason there is insufficient funds is because Mayor Brelyn directed him to make a draw down on those funds and then reimburse the town \$406,000 for three water wells the town had already dug. They originally were going to only dig two wells. The first one was operative and the second one wasn't, so they had to dig a third one. The location for the third well was private property that the town does not own, so the well is sitting unused. Capstone also paid at the mayor's request \$40,000 to Twin Spires, Mr. Fletcher's company in Texas. We asked Mr. Fletcher what that was for and he told us he put together a water management report that was to be used in conjunction with the Capstone lease purchase. The Capstone CEO said he did send a report to Mr. Fletcher but that he had done substantially all of the report and very little had been done by Mr. Fletcher. We don't have version control of the report and I'm not sure exactly what he did for that \$40,000.

Senator Luneau asked if there was criminal activity since it was referred to the AG's office. Mr. Kelley responded the 4th District Attorney in Ouachita Parish is in the process of reviewing the findings. Senator Luneau asked if the auditor just does a referral and the AG makes the decision. Mr. Harris responded we actually put in the finding that they may have committed a violation and we set forth each of the legal provisions we believe may have been violated. We are not criminal investigators, so we referred to the district attorney and work with him in any additional work he needs to have done.



Mr. Kelley continued discussing the statements from the Capstone CEO as to why they did not have enough resources left in the lease purchase to pay for the water filtration system. The last issue he brought up was there were increased labor costs in the installation of the meters. The Town did not get permission from Greater Ouachita to remove the existing meter, so the Town directed Capstone to dig a new meter and put it between the existing meter and the house. Now there's two meters on the line and the only one that's being read is the old manual meter and the new electronic meter is sitting there, so they had to dig up and cut the water line to splice it in. That costs a lot more time and effort than replacing an existing meter where there's already a hole in the ground with a meter box.

Vice-chair Walsworth asked if the \$40,000 was for a report that Mr. Fletcher didn't do. Mr. Kelley responded I cannot tell how much work he did on the report but the Capstone CEO said he did that work. Capstone's name is on the report. It's similar to what the town engineer did when they were going to do the surface water plant including how it's going to operate, what it'll cost to operate it, and what the water rates should be.

Chairman Stokes asked if there was any relationship between the Mr. Fletcher and anyone in town administration. Mr. Kelley responded we looked for that and did not find anything that was apparent.

Mr. Harris added that for the new meters a person does not have to go out and read meters anymore. The reason for the whole Wifi system is they'll transmit the information so they would be able to calculate everything. But they are not working, nor are they being used because the Town never finished making all the payments to Capstone for them to actually be able to turn it over to them. Mr. Kelley added the Town does own the meters through the lease purchase agreement. Greater Ouachita reads their analog manual meters that are in the ground. Capstone showed us a demonstration of where the meters are and what they're doing. The Town would get some alerts but they don't produce water so they don't bill for water. The meters are operational but the town has no use for that information.

Chairman Stokes asked if the old meters and the new meters are in place. Mr. Harris responded yes. They are hand dug on the same line. Initially Capstone thought they were going to replace the meters and when they got there they found out they didn't have the authority of Greater Ouachita Water to do that. The mayor wanted them to go a little bit further up the line between the meter and the house, hand dig, cut the line, install a meter there and then cover the thing back up which is one of the reasons for the additional costs because they thought they were only replacing the meter in the box but they're not. Chairman Stokes asked are there any other problems that would be created by doing this. Mr. Harris responded you can end up having a leak in the line. Anytime you have a line that's been in the ground for a long time and you cut it and put something new on the line there's a possibility you're going to up having a crack or a break and have water leakage as a result. Chairman Stokes asked if that has been a problem yet. Mr. Harris answered he would let the town address the issues with that.

Mr. Kelley continued by saying to date there were three disbursements to Capstone from the \$2 million lease purchase. They've received \$1.6 million, the Town got \$400,000 for the wells, and \$40,000 went to Mr. Fletcher. The other disbursement of \$192,000 was used to make the first installment payment on the lease purchase. This is not generating any revenue since they don't have the ability to produce any water. There is only a \$223,000 balance left to draw down on to finish the conex water filtration system. Capstone told us that that amount would be insufficient to pay for that so it's in a holding pattern. The Town's fiscal administrator can give you a more up to date explanation as to where they're at now. Senator Luneau asked if the meters are in public right away areas or are they on private property. Mr. Kelley answer he did not know.

Senator Walsworth asked when the Town went to the state bond commission they didn't have a water system so how did they get a bond for a water system and are they using that money to supplement the sports complex. Mr. Kelley answered they had a water and sewer system which they bill every month. Both of those utilities would have been an acceptable use of that money. They did use over \$2 million of the 2017 \$4 million Utility Revenue Bond on the sports park. They had the ability to make upgrades to the sewer system but they did not do that. The money went to advance the water system, pay legal fees and finish the sports complex.

Mr. Purpera added he met with Treasure Schroeder since the time that this project went through bond commission and there have been some changes made. Obviously the bond commission made decisions based upon information that was not accurate. Now the treasurer's office is auditing the information that they are being provided. The fiscal advisor is

providing information directly to the bond commission rather than a mayor having to certify the accuracy of the data. So we are making good changes going forward.

Senator Walsworth asked if people are under oath when they go before the bond commission. Mr. Purpera responded yes. Senator Walsworth asked if that issues falls under the attorney general or the fourth district court. Mr. Harris responded anything written that they sent in from the Town, the venue would be proper both there and the place in which it was received. One of the deficiencies in the process is that the mayor or nobody else signed it saying it was true and correct. So who's really certifying the information? I think the bond council acted in good faith believing the financial information provided to them is accurate so exactly what responsibility or culpability would they have for that. The treasurer is talking about having people now certify that the information is true and coming from multiple people so they don't have false information. Mr. Purpera added we want to be able to hold someone accountable for that and obviously it appears that the bond commission was duped in this one. So the treasurer's office has implemented audit controls now.

Senator Luneau stated the bond commission basically looks at the processes, if everything's in place or if there's questions about some cost but we do not have anything in place to question the veracity of the information that's provided. The entity may not even come to the table. Those things are voted on because by the time they get to that level all of the look-see has been done. The bond commission accepts that all information presented to them as correct. So maybe the answer is that we need to make sure these people providing information are not lying to us. Mr. Purpera responded the staff does look before it gets to you but now they are doing a much more robust look. Mr. Harris stated there's no way you're going to know that information is false unless you could go back and do the same type of analysis we did. The bond commission moves too many issues through to be able to put that kind of effort into it, so if you can't rely upon the people providing the information the system is not going to work. Senator Luneau noted they have these type bonds every single meeting it's very routine. We have to address this, thank you for your work. Mr. Harris stated if we can hold people accountable by having them sign and certify the information is true hopefully they'll do additional work to make sure they're submitting the correct information.

Town of Sterlington Fiscal Administrator Junior Shelton and Mayor Caesar Velasquez testified to the progress made in the Town. Mr. Shelton shared that since the last meeting a few months previously, they have paid over \$400,000 in debt service. Payroll has also been paid with some money left over. A revenue plan was put in place before he was appointed to send sales tax revenues to a paying agent to pay for a few of the bonds. The aldermen and the mayor got a sewer rate increase passed and that is giving us sufficient funds to not only operate but have some money built up during the year for emergencies such as sewer repairs and to service the debts. We have also worked with all of the financial institutions. Some of them have made some adjustments so that it's made it easier to make payments and maybe stretch the payments out. We have had great cooperation through the administration, the board of alderman, the town's CPA, the town attorney, and all the institutions that we are working with. We are making a great plan and great progress. I would say \$15 million of our long term debt, which totals about \$20 million, whether it's bonded or just debt that they have is taken care of.

Mr. Shelton continued sharing about some problems still out there including the debt on the ballpark. That is a problem because quite honestly because this is a dead period where nothing is really happening out there until the end of February. But we are trying to figure out a way to even make those events more profitable. The money for the Musco lighting is a problem. However, the biggest problem is the \$2.64 million for the water system that is not there. This issue is very complicated and after working for the past four months, he did not truly understand all the workings of this transaction until now.

The Capstone Metering was to provide 420 water meters and other equipment to build a filtration system. Now I want you to understand the only equipment that's at the city are these meters and it is not 420 meters that are installed, it's about 375, I believe. But no other equipment has been delivered. No other work has been done on the filtration system. The CEO of Capstone Metering, Mr. Williamson, told me that the reason the bills have totaled \$1.6 million is it's an all-in contract. So they are charging percentages of the contract. I had him, after great difficulty, send me the invoicing and he's got things on here like field training and design work and treatment plant payment. When we talked about the \$300,000 for contingency, it is listed on his list of equipment here, but it's not listed as contingency. It's listed as two

freshwater well tools for \$300,000 but there's a note beside it written, I believe by the mayor that says this was built in as contingency - misnamed intentionally.

There is a contingency line but it's only \$100,000. So the town is obligated to that \$1.6 million. I have been trying to work with Mr. Williamson to determine exactly what work, labor, and processes have been put in place that we legitimately owe for. This is where the real day of reckoning came. There are several entities involved here. You have Capstone Meters that sold the equipment, and their financing company which is Government Capital that financed it. Then there is Spirit Bank in Texas. All three of those are in Texas. Spirit Bank in Texas is like a receiver of the funds, the escrow account, and then they went to Citizens Bank and Trust in Vivian to basically sell the loan to them. They funded the loan \$2.64 million sitting in Spirit Bank on which the draws were made. Now understand to the draws that total \$1.6 million were formulated by Capstone Meters. The payment went directly to Capstone Meters. Yes, he did send checks back to cover the cost of wells but there's no place in any of these documents that wells were to be paid for out of this money. The Town had already paid everything but the last payment and the contingency on the wells, so how do you put wells in a lease purchase. When the lease purchase is over, how do you give the wells back? There are a lot of questions about this whole contract that I'm trying to sort out with Mr. Williamson about exactly what is owed so that we can determine legitimately what we owe back to the bank. Those checks for the wells should have gone back to the bank, not the town. I am not a CPA, but tell me how you have a debt over here and you have something owing over here and you have no way of knowing what it is that you're paying for.

Mr. Shelton continued testifying about the \$2 million sitting out there that he could not even tell when that will be determined and figured out. I do want to point out one thing at the last meeting that I did not know where \$1.6 million went. Well I just answered that question and I want to reiterate, I have seen nothing that says anybody has taken any money from the Town. The \$1.6 million went directly to Capstone Meters. You can go to the Town of Sterlington and see meters in the ground but they do not have a water filtration system. They do not have anything physically that is listed on these invoices. Now in talking to Mr. Williamson about fixing these leaks, because there had been quite a number of leaks, he tried to tell me that they had fixed all of those.

Mr. Shelton said that Mr. Williamson at first tried to say it wasn't his responsibility and not his meters leaking. He asked Mr. Williamson who put the meters in and the response was that his company did. So then Mr. Shelton told him the leaks are Capstone Meters' responsibility. But Mr. Williamson has claimed that he's fixed everything but could not provide documentation of what addresses they worked at, what they fixed and something signed by the town that it was inspected and accepted. Now Mr. Shelton has no communications with Mr. Williamson at all so it's going to be very difficult to sort that \$2 million out. The Town will come up with a plan to make the ballpark work, but he just does not see any way out yet about the \$2 million.

Vice Chairman Walsworth stated that he represents the Sterlington area for another month. One question is who went on somebody's private property to dig a well and nobody owns it and what is our remedy to that? Mr. Shelton commented that he was not there during that time period.

Mayor Velasquez said that the land owner brought the issue to his attention in February or March. The explanation I was given was that the mayor had requested permission to do a test well on the land owner's property. And my understanding from another member of the land owner's family is that he reluctantly gave that permission to help the town. At that point the well was drilled and it was found to be viable and they went through the process of completing that well but that is all I've been told at this time.

Senator Walsworth asked if the town is going to buy that property. Senator Velasquez said he talked to the landowner and they're willing to discuss either a land swap or a purchase agreement. So that's still in works with the family that owns a few hundred acres. The water well is on 0.25 acres. There has been open discussion with the land owners.

Senator Walsworth asked if Greater Ouachita is still providing water to the citizens of Sterlington. Mr. Shelton said that is correct and he has worked with Greater Ouachita about a new franchise agreement which is going to be very profitable for the city. They are going from 3% to 5% force and they're going to lease our water tower at \$10,000 a month. This will bring in approximately a \$100,000 for the town. Greater Ouachita will be the water company and the town does not have a water company.

Senator Walsworth asked if the sewerage rates have been stabilized. Mr. Shelton said the sewerage rates were raised a few months ago and was not quite where they needed to be. We have raised it again and now at a point where we have enough to operate. In fact we are even talking to a third party operator that will cut our costs significantly instead of the town trying to operate it and it will cover our operational costs and our debt service.

Senator Walsworth asked for the projections for the ball park and where are we headed after these two years. Mr. Shelton responded that the town thought a good plan was in place and trying to sell advertising on the ball field walls which would bring in a significant amount of money. However we are running into negative publicity because some of the folks are concerned about the viability of the park surviving and that hurts advertising sales. So I do not really have a good plan for you yet, but we are working on it every day. The aldermen, the mayor, town clerk and pretty much everyone are working on it. We are talking to some folks about trying to operate the park so that the town will not have to operate it. Right now a former alderman has been volunteering his time. Senator Walsworth commented that the current park operator has done an incredible job working there every day and night but is worn out. Mr. Shelton said that he has another job as well as volunteering at the ballpark day and night. I have told him that we are trying to get somebody to run the park and he welcomes that but it is difficult to find the right people. Senator Walsworth praised the incredible job done by the alderman because he loves our community and is at the ballpark just way too much working so hard.

Senator Walsworth commented that he heard that police protection is from 6 am to 6 pm and Ouachita Parish takes over at night. Mayor Velasquez said that is what is going on right now. Initially when I took over as mayor, I did ask Ouachita Parish for assistance and did not intend for them to be a complete shift cycle. However as we have attrition some folks out and some left for other jobs, we have not backfilled those positions. Senator Walsworth said that means Ouachita Parish covers from 6:00 PM to 6:00 AM. He asked how many people are in the police department right now besides the police chief who is an elected official. Mayor Velasquez responded they have two officers and one is the assistant police chief.

Senator Walsworth thanked the mayor for coming to Baton Rouge and for his public service to the people of Sterlington for a long time. Senator Walsworth asked who the town attorney was currently. Mayor Velasquez responded Devin Jones from Monroe who was hired in June 2018.

Chairman Stokes thanked the Legislative Auditor's Office for their work. We appreciate your work knowing how mentally demanding it can be. Thank you to my colleagues for the opportunity to serve as the Chairman of this committee for the last two years and Vice-Chair before that. It's been an honor especially as an auditor. We have proclamations for each of our members. I would like to say thank you to people in my district and this committee and the House of Representatives. It's really been an honor.

Senator Walsworth stated we have a resolution of the Legislative Audit Advisory Council to commend the Honorable Julie Stokes for a dedicated service to the people of the State of Louisiana as a member of the Legislative Audit Advisory Council and to congratulate her upon completion of our term as chairman of the council. Whereas Representative Stokes has proven herself to be exemplary public servant since taking in office in March, 2013 and to win in a special election to fill the seat for House District 79 during which time she has served her constituents and the state in an honorable and dedicated manner. And whereas Representative Stokes as a certified public accountant and has earned her Bachelor of Science Degree in Accounting from the University of New Orleans. And whereas Representative Stokes, diligent committee service has included serving as Chairman of the Legislators Tax Streaming and Modernization Commission and being a member of the House Executive Committee, the House Committee on Ways and Means, the House Committee on Health and Welfare and the Joint Legislative Committee on Capital Outlay as well as an interim member of the Joint Legislative Committee on the Budget and the House Committee on Appropriations. And whereas Representative Stokes has been a proud member of the Jefferson Parish Legislative Delegation, Louisiana Legislative Women's Caucus and the Republican Legislative Delegation. And whereas Representative Stokes is actively involved with the Jefferson Chamber of Commerce, the University of New Orleans Alumni Association, the Louisiana Society of CPAs and the local economic development activities including the Kenner Economic Development Committee. And whereas Representative Stokes has served on the Executive Committee of the National Conference of State Legislators and is Co-Chair of the Task Force on State and Local Taxation as well as Co-Chair of the NCSL Budgets and Revenue Standing Committee. And whereas Representative

Stokes was recognized nationwide as one of a handful of State Legislators of the Year by the state tax notes and received an award for outstanding achievement in tech and state tax reform from the Tax Foundation for work on sales tax reform in Louisiana. And whereas Representative Stokes traveled the State of Louisiana with the committee of a hundred in 2015 in 2016 as one of the lead speakers on tax reform, earning accolades from many media outlets as one of the most knowledgeable legislators in the field of Louisiana fiscal environment. And whereas Representative Stokes was chosen among 24 other women for the 2017 class of governing magazine's Women in Government Leadership Program, as well as earned numerous other awards during her tenure as legislator. Therefore be resolved at the Legislative Audit Advisory Council, a committee the Louisiana Legislature, does here by commend Representative Julie Stokes for her outstanding accomplishments and express gratitude for her uncompromising efforts to improve the welfare of her constituents in Jefferson Parish and the citizens of the State of Louisiana. Further resolved that the Legislative Audit Advisory Council hereby expresses enduring gratitude to Representative Stokes for her service as Chairman of the council and extends best wishes for continued success and happiness for her future endeavors. Further resolved that a copy of this resolution be transmitted to the Honorable Julie Stokes at her final meeting as Chairman of the Legislative Audit Advisory Council on December 12th, 2019. Thank you Chairman Stokes.

Chairman Stokes replied it's been a great seven years and I know that I will definitely miss this. I loved the opportunity to be able to help the many local governments that have come before us to kind of get their books in order and get them on the straight and narrow path toward financial success. It's a long journey for a lot them because it's hard to manage the wants and needs of your constituents. I applaud all out there who do great work trying to make a better life for the people of Louisiana. Thank you to my colleagues for the great honor of this proclamation.

Senator Walsworth thanked Chairman Stokes and the Legislative Auditor's office. I've enjoyed this committee and know we are leaving it in good hands. This is an important committee and I think the administrators that we have hired are a good thing. We've got to work together with the police jurors and the municipal associations to try to figure out how to make government work. We struggle with those towns that used to be 5,000 that now have 200 people and the infrastructure cannot be provided for. We have to figure out some answers and have got to make sure that those services that those individuals need are performed and done well. We are going to miss some of the institutional knowledge that is leaving but I am confident that this state is better with term limits and it gives people opportunities to figure out a better way.

### **Other Business**

No other business was discussed.

### **Adjournment**

Senator Walsworth offered the motion to adjourn and with no objection, the meeting adjourned at 12:30 p.m.

*Approved by LAAC on: June 18, 2020*

The video recording of this meeting is available in House Broadcast Archives:  
[http://senate.la.gov/video/videoarchive.asp?v=senate/2019/12/121219LAAC\\_0](http://senate.la.gov/video/videoarchive.asp?v=senate/2019/12/121219LAAC_0)